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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,495	08/20/2007	Jeffrey W. Moe	G137 1020.1	9827

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WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
GOODRICH CORP.
ATTN: PATENT DOCKETING
P.O. BOX 7037
ATLANTA, GA 30357-0037

EXAMINER

ELDRED, JOHN W

ART UNIT	PAPER NUMBER
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3641

MAIL DATE	DELIVERY MODE
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07/21/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/599,495	MOE ET AL.	
	Examiner	Art Unit	
	J. Woodrow Eldred	3641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) 24-50 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19-23 is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-13 is/are rejected.
- 7) ☒ Claim(s) 6 and 14-18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 9-29-06 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>09292006, 10262006, 02182008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's election without traverse of Group I, claims 1-23 in the reply filed on 4-26-10 is acknowledged.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 is unclear and indefinite since it calls for the forward and aft assemblies to be unconnected to each other, but this contradicts the base claim 1, which requires that the assemblies be part of a single body, i.e. "an elongated body". It would be impossible for the forward and aft assemblies to form a single body in they are not connected.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-5, and 7-11 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Courtois et al (6,786,451).

Courtois et al disclose a deployable landing gear truck fairing comprising all claimed elements including an elongated body 22, 21, 24, 25, 11, 12 having first and second lateral edges (i.e. the edges of element 22); a front rising portion 21 of the elongated body; first and second compliant edges (edges of elements 102, 103) affixed to the first and second lateral edges (Note that the edges of elements 102, 103 can be considered

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compliant either because of the spring hinge which causes them to be compliant relative to the other moving parts or just because all materials are inherently compliant to some degree and there is no claimed limitations to set the degree of compliance required); a seal 120; where the seal is attached to element 10 which can be considered part of an aft assembly and the elements forward of it a forward assembly; any one of many elements such as the side of element 21 and the side of 25 can be considered “upper and lower shield plates” and any one of the intervening elements would be a “weight bearing spacer” between the plates.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Courtois et al (6,786,451).

Courtois et al disclose a deployable landing gear truck fairing comprising all claimed elements including an elongated body 22, 21, 24, 25, 11, 12 having first and second lateral edges (i.e. the edges of element 22); a front rising portion 21 of the elongated body; first and second compliant edges (edges of elements 102, 103) affixed to the first and second lateral edges (Note that the edges of elements 102, 103 can be considered compliant either because of the spring hinge which causes them to be compliant relative to the other moving parts or just because all materials are inherently compliant to some degree and there is no claimed limitations to set the degree of compliance required); a seal 120; where the seal is attached to element 10 which can be considered part of an aft assembly and the elements forward of it a forward assembly; any one of many elements such as the side of element 21 and the side of 25 can be considered “upper and lower shield plates” and any one of the intervening elements would be a “weight bearing

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spacer” between the plates. Courtois et al fail to teach that the compliant edge comprises one of either a spring steel or an elastomeric material. However, Courtois et al do disclose that the elements 102, 103 comprise a spring and Official Notice is taken that it is notoriously well known to make springs from spring steel or elastomeric materials. To have the spring made from one of these materials is considered to have been obvious to one having ordinary skill in the art.

8. Claims 6, 14-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claims 19-23 are allowed.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Woodrow Eldred whose telephone number is (571)272-6901. The examiner can normally be reached on Monday to Thursday, from 8:00 a.m. to 5:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Michael Carone can be reached on 571-272-6873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/J. Woodrow Eldred/

Primary Examiner

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JWE